

ADMINISTRATIVE REPORT

Subject: A2-2022: Application for Consent – 186 Sixth Street West
Date: 2022-11-02
To: Committee of Adjustment
From: Cody Vangel, CBO/Planner



ISSUE

An application for consent (lot addition) File A2-2022 has been submitted by authorized agent Jim Strachan on behalf of the multiple owners of 186 Eighth Street West. The application proposes to sever an irregular section of land from 186 Eighth Street West and to add it onto 180 Eighth Street West.

180 Eighth Street West and 186 Eighth Street West both hold legal non-conforming residential uses.

PROPERTY HISTORY

Based on the information contained on file, the following building permits have been issued for 186 Eighth Street West:

- No. 393 (April 1959): 18' x 28' residence
- No. 1246 (July 1962): 12' x 24' addition to dwelling
- No. 466 (June 1959): concrete foundation under residence
- No. 2088 (October 1966): 16' x 24' garage
- 2001/037: addition to existing residence

Based on the information contained on file, the following consent applications have been approved for 186 Eighth Street West:

- B16/78: consent to transfer part of lots on HBC Reserve (1228, 1232, 1236 Cornwall rear 20ft of each property and 198 Eighth Street West easterly 20ft) (20ft added to these properties)
- B22/77: transfer the westerly 20ft of land adjoining Parts 1&2 of Plan 48R985. Dimension of land to be severed 20' x 250'

THE OFFICIAL PLAN

The official plan designation for the property is "Employment". The Employment area typically promotes various types of commercial, industrial, and economic developing uses. The Employment area does not typically promote residential uses.

It will be reiterated that the existing residential uses are legal non-conforming.

ZONING BY-LAW

The existing zoning for the property is Light Industrial (M1).

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There is no intended change of use as a result of this application. The applicant is simply looking to sever a segment of land from 186 Eighth Street West and add it to 180 Eighth Street West. The following table will outline the required general provisions for the M1 zone and compare this to the retained lands as well as the severed lands once added to 180 Eighth Street West:

Regulation	Required	Retained – 186 Eighth Street West	Severed & added – 180 Eighth Street West	Compliant
Lot Area (m2)				
- Without municipal sewage services	2050	N/A	N/A	N/A
- With municipal sewage services	1400	6,294	4,876	Yes
Lot Frontage (m)	30	41.3	32	Yes
Minimum Yard (m)				
- Front	7.5	Unchanged	Unchanged	N/A
- Interior Side	3.0	6.4	Greater than 3.0	Yes
- Exterior Side	7.5	N/A	N/A	N/A
- Rear	7.5	Greater than 7.5	Greater than 7.5	Yes
Maximum Lot Coverage (%)	65	Less than 65%	Less than 65%	Yes
Minimum Landscape Area (%)	20	Greater than 20%	Greater than 20%	Yes
Maximum Building Height (m)	20	Less than 20m	Less than 20m	Yes

PROVINCIAL POLICY STATEMENT

Upon review of the Provincial Policy Statement 2020 (PPS), it does not appear that the proposed severance would contravene the PPS as there is no proposed change in use, the current use is legal non-conforming, and the severed lands will be added to the neighbouring property instead of creating a new individual lot.

DIVISIONAL COMMENTS

- Fort Frances Fire Rescue
 - No issues
- Fort Frances Recreation and Culture
 - No issues
- Fort Frances Administration & Finance
 - No issues
- Fort Frances Operations and Facilities
 - No issues
- Fort Frances Building and Planning

- Municipal sewage services for both 186 Eighth Street West and 180 Eighth Street West extend westerly across 198 Eighth Street West onto Cornwall Avenue. It would be recommended that a condition be required to register the following easements to legalize these sewer services:
 - Easement over 198 Eighth Street West in favour of the owners of 186 Eighth Street West and 180 Eighth Street West for the sewer service across the lands.
 - Easement over 186 Eighth Street West in favour of the owners of 180 Eighth Street West for the sewer services across the lands.

OTHER

If the Committee of Adjustment wish to impose conditions on the consent, Subsection 53(41) of The Planning Act states the following:

1.1.1.1. **CONDITIONS NOT FULFILLED**

(41) If conditions have been imposed and the applicant has not, within a period of one year after notice was given under subsection (17) or (24), whichever is later, fulfilled the conditions, the application for consent shall be deemed to be refused but, if there is an appeal under subsection (14), (19) or (27), the application for consent shall not be deemed to be refused for failure to fulfil the conditions until the expiry of one year from the date of the order of the Tribunal issued in respect of the appeal or from the date of a notice issued by the Tribunal under subsection (29) or (33). 2017, c. 23, Sched. 5, s. 100 (6).

Additionally, applicants shall be aware of the following regarding consent application in Subsection 53(43) of The Planning Act:

1.1.1.2. **LAPSE OF CONSENT**

(43) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent. 1994, c. 23, s. 32.

SAMPLE CONDITIONS

The Committee of Adjustment may wish to impose conditions on the consent including but not limited to the following:

- It would be recommended that a condition be required to register the following easements to legalize these sewer services:
 - Easement over 198 Eighth Street West in favour of the owners of 186 Eighth Street West and 180 Eighth Street West for the sewer service across the lands.

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- Easement over 186 Eighth Street West in favour of the owners of 180 Eighth Street West for the sewer services across the lands.
- Subsection 3 or 5 of Section 50 of the Planning Act R.S.O. 1990 shall apply to any subsequent conveyance or transaction involving the severed land.
- As the application is for the purpose of a lot addition, the deeds or instruments, submitted to the Secretary-Treasurer for review and consent endorsement, shall be accompanied by an undertaking from the applicant's solicitor confirming that the lands to be severed will be consolidated on title with the adjacent lands.
- Payment of the balance of any outstanding taxes and accounts payable, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Municipality.
- That the Municipal Planner be provided with a deposited reference plan bearing the seal of the Land Registrar depicting the severed property a part thereon. A digital and hard copy of the deposited Reference Plan are to be submitted to the Municipal Planner of the Town of Fort Frances.
- That the Municipal Planner be provided with the revised legal description of the severed and retained property for the issuance of the Certificate of Official.

SUMMARY

Administration acts as an advisory body to the Committee of Adjustment. Comments received are provided in the form of information to assist the Committee.

The Planning Act sets the standard to which provincial interests, provincial and local policies and goals are implemented. Accordingly, review of the application to consider the following:

- Conform to Subsection 51(24) as required by Subsection 53(12) of The Planning Act.
- Conform to the Town of Fort Frances Official Plan.
- Conform to the Provincial Policy Statements as required by Subsection 3(1) of The Planning Act.

Should the Committee of Adjustment find it appropriate to approve this application, the previously noted conditions have been recommended.